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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,538	03/07/2002	Deb K. Chatterjee	0942.5250001	8240

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EXAMINER	
PROUTY, REBECCA E	

ART UNIT	PAPER NUMBER
1652	

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/091,538	CHATTERJEE ET AL.	
	Examiner	Art Unit	
	Rebecca E. Prouty	1652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 March 2006*.

2a)☐ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4,6-26,28,30-34,36,37,39,41-57 and 60-96* is/are pending in the application.

4a) Of the above claim(s) *2-4,6-15,18-26,31-34,36,37 and 43-50* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1, 16, 17, 28,30,39,41, 42, 51-57 and 60-96* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/13/06 has been entered.

Claims 5, 27, 29, 35, 38, 40, 58, and 59 have been canceled. Claims 1-4, 6-26, 28, 30-34, 36, 37, 39, 41-57, 60 and newly presented claims 61-96 are still at issue and are present for examination.

Claims 2-4, 6-15, 18-26, 31-34, 36, 37, and 43-50 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and/or species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 10/4/04.

This application contains claims directed to the following patentably distinct species of *E. coli* having a mutation that results in reduced activity of a nuclease :

E. coli having a mutation that results in reduced activity of exonuclease I

E. coli having a mutation that results in reduced activity of exonuclease II

E. coli having a mutation that results in reduced activity of exonuclease III

E. coli having a mutation that results in reduced activity of exonuclease IVA

E. coli having a mutation that results in reduced activity of exonuclease IVB

E. coli having a mutation that results in reduced activity of RecBCD (exonuclease V)

E. coli having a mutation that results in reduced activity of exonuclease VII

E. coli having a mutation that results in reduced activity of exonuclease VIII

E. coli having a mutation that results in reduced activity of RecJ

E. coli having a mutation that results in reduced activity of dRpase

E. coli having a mutation that results in reduced activity of endonuclease I

E. coli having a mutation that results in reduced activity of endonuclease III

E. coli having a mutation that results in reduced activity of endonuclease IV

E. coli having a mutation that results in reduced activity of endonuclease V

E. coli having a mutation that results in reduced activity of endonuclease VII

E. coli having a mutation that results in reduced activity of endonuclease VIII

E. coli having a mutation that results in reduced activity of endonuclease A

E. coli having a mutation that results in reduced activity of fpg

E. coli having a mutation that results in reduced activity of uvrABC

E. coli having a mutation that results in reduced activity of mutH

E. coli having a mutation that results in reduced activity of vsr endonuclease

E. coli having a mutation that results in reduced activity of ruvC

E. coli having a mutation that results in reduced activity of ecoK

E. coli having a mutation that results in reduced activity of ecoB

E. coli having a mutation that results in reduced activity of mcrBC

E. coli having a mutation that results in reduced activity of mcrA

E. coli having a mutation that results in reduced activity of mrr

E. coli having a mutation that results in reduced activity of topoisomerase I

E. coli having a mutation that results in reduced activity of topoisomerase II

E. coli having a mutation that results in reduced activity of topoisomerase III

E. coli having a mutation that results in reduced activity of topoisomerase IV

E. coli having a mutation that results in reduced activity of endoribonuclease I (RNase I)

E. coli having a mutation that results in reduced activity of endoribonuclease M

E. coli having a mutation that results in reduced activity of endoribonuclease R

E. coli having a mutation that results in reduced activity of endoribonuclease III

E. coli having a mutation that results in reduced activity of endoribonuclease P

E. coli having a mutation that results in reduced activity of endoribonuclease E (RNase E)

E. coli having a mutation that results in reduced activity of endoribonuclease K

E. coli having a mutation that results in reduced activity of endoribonuclease H

E. coli having a mutation that results in reduced activity of endoribonuclease HII

E. coli having a mutation that results in reduced activity of endoribonuclease IV

E. coli having a mutation that results in reduced activity of endoribonuclease F

E. coli having a mutation that results in reduced activity of endoribonuclease N

E. coli having a mutation that results in reduced activity of endoribonuclease P2

E. coli having a mutation that results in reduced activity of endoribonuclease O

E. coli having a mutation that results in reduced activity of endoribonuclease PC

E. coli having a mutation that results in reduced activity of endoribonuclease PIV

E. coli having a mutation that results in reduced activity of polynucleotide phosphorylase

E. coli having a mutation that results in reduced activity of oligoribonuclease

E. coli having a mutation that results in reduced activity of exoribonuclease II

E. coli having a mutation that results in reduced activity of exoribonuclease D

E. coli having a mutation that results in reduced activity of exoribonuclease BN

E. coli having a mutation that results in reduced activity of exoribonuclease T

E. coli having a mutation that results in reduced activity of exoribonuclease PH

E. coli having a mutation that results in reduced activity of exoribonuclease R.

The species are independent or distinct because each species comprises a microorganism with different genetic

characteristics which will influence the nuclease activities present in the microorganism differently.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 14, 16, 17, 30, 39, 41, 51-57, 60-62, 65, 66, 69, 70, 73, 74, 77, 78, 81, 82, and 85-96 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or

invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must

be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rebecca E. Prouty whose telephone number is 571-272-0937. The examiner can normally be reached on Tuesday-Friday from 8 AM to 5 PM. The examiner can also be reached on alternate Mondays

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapura Achutamurthy, can be reached at (571) 272-0928. The fax phone number for this Group is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rebecca Prouty
Primary Examiner
Art Unit 1652